

Attorney Docket No. 10123/04001 (03-318)

IN THE DRAWINGS

Please replace the drawings with the attached replacement sheets of formal drawings.

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REMARKS

Drawings have been replaced with formal drawings. Claims 1 - 18 remain pending in the present application. No new matter has been added. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

The drawings stand objected to as failing to comply with 37 C.F.R. 1.121 (d). Replacement formal drawings are enclosed. It is therefore respectfully requested the objection to the drawings be withdrawn.

Claims 1 - 18 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 5,989,216 to Johnson et al. ("Johnson").

Claim 1 recites an access port comprising a septum including an operative surface covering an opening of a housing and an attachment portion for securing the septum to the housing and further including "an annular surface extending radially beyond a periphery of the operative surface and separated from the operative surface in a direction substantially perpendicular to the annular surface, *the annular surface being coupled to the operative surface by a chamfer which, when the septum is mounted within the housing, is subject to a force oriented substantially perpendicularly with respect to the annular surface, the chamfered portion redirecting a portion of the force to compress the operative surface in a direction substantially parallel to the annular surface.*"

Similarly, claim 12 recites a septum comprising an "attachment portion including an annular surface" and an operative surface having a periphery "radially within a periphery of the annular surface" and "*a chamfered portion providing a transition between the attachment portion and the operative surface, the chamfered portion re-directing a component of a force applied to the chamfered portion to compress the operative surface.*"

In contrast, the septum 122 of Johnson comprises an uppermost surface, which the Examiner analogizes to the recited operative surface and a lower unnumbered portion, which the Examiner analogizes to the recited annular surface of the attachment portion. (See 9/24/07 Office Action, p. 3) The Examiner then analogizes "the angled cut in 122" to the recited

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“chamfered portion *providing a transition between the attachment portion and the operative surface.*”

Initially, it is noted that the term chamfer is defined as a beveled edge, an angled surface at the intersection of two faces of a structure. As made clear in the specification and drawings of the present application, the chamfered portions 116, 208, 416, 616, 608 are angled curved or stepped features positioned relative to a compressive force to be applied thereto so that a portion of this force is redirected at an angle relative to the direction of the original force. (See, Fig. 3 and para. 23).

The Examiner uses the phrase “angled cut in 122” to describe a structure allegedly analogous to the recited chamfer portion which is vague. No where does the Examiner particularly point out which region is believed to be comparable to the chamfered portion recited in claim 1. There is no such element described in Johnson and no such element is numbered in any of the figures. There are various septa labeled 122 in Johnson all with different shapes and there are no elements of any of these septa 122 that are described or referenced by name or number. The only reference the Examiner makes to specific figures is to Figs. 10 and 11 which appear to show a septum 122 including a planar operative surface connected to a substantially parallel annular surface by a perpendicular side surface which engages the flange 125 of the housing 120. (See Johnson, col. 5, ll. 57 - 60; Figs. 4, 10). The annular surface meets the side surface at what appears to be a right angle. Thus, only the rounded transition from the side surface to the operative surface of the septum 122 of Figs. 10 and 11 appears as a candidate for the recited chamfered portion. However, this rounded surface projects out of the housing and in any case is part of the central portion of the septum 122 which is not compressed as it is not even inside the housing. Thus this rounded transition between the operative surface and the side wall of the septum 122 cannot re-direct *a component of a force applied to the chamfered portion to compress the operative surface,*” as recited in claim 1.

In view of the lack of any description of these alleged “angled cuts,” of the surfaces of the housing engaging them or of any forces imparted to them or directed from them, it is respectfully submitted that the Examiner’s rejection is improperly based on speculation and a hindsight reconstruction of the invention and that Johnson neither shows nor suggests “a chamfer which, when the septum is mounted within the housing, *is subject to a force oriented*

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substantially perpendicularly with respect to the annular surface, the chamfered portion redirecting a portion of the force to compress the operative surface in a direction substantially parallel to the annular surface”, as recited in claim 1 and that claim 1 is allowable over Johnson.

For the same reasons it is respectfully submitted that Johnson neither illustrates nor describes a septum having “a chamfered portion providing a transition between the attachment portion and the operative surface, the chamfered portion re-directing a component of a force applied to the chamfered portion to compress the operative surface,” as recited in claim 12. It is therefore respectfully submitted that claim 12 is not anticipated by Johnson and that this claim is allowable. Because claims 2 - 11 and 13 - 18 depend from and, therefore, include the limitations of one of claims 1 and 12, it is submitted that these claims are also allowable.

Claims 1 and 12 stand rejected under 35 U.S.C. § 102(b) as anticipated by Wiita (U.S. Pat. No. 4,772,270) or Bark (U.S. Patent No. 4,904,241). In support of the rejection, the Examiner notes that the “elements disclosed in Wiita and Bark are fully capable of satisfying all structural, functional, spatial, and operational limitations in the amended claims”. (See 9/24/07 Office Action, p. 4).

Wiita purports to show a port 10 having a septum 70 comprising a top surface 76 and an annular ring 72. (See Wiita, col. 5, li. 65 – col. 6, li. 13; Fig. 2). The top surface 76 is connected to the annular ring 72 via a portion of the septum 70 abutting an annular surface 26 of the port 10. (*Id.*). It is submitted that Wiita shows no chamfered portion “providing a transition between the attachment portion and the operative surface.” Rather, the septum of Wiita includes what appears to be a substantially planar annular surface extending radially outward from the central operative portion. Although the Examiner contends that the shoulder 24 of the Wiita device is comparable to the recited chamfer portion, the shoulder 24 is designated as an inner wall of the port 10 and does not constitute a chamfer formed *on the septum*. (See Wiita, col. 4, li. 68 – col. 5, li. 4). If the Examiner has intended to refer to the portion of the septum 70 abutting the shoulder 24, this reference would be invalid as this portion is designated as the annular ring 72, which the Examiner has compared to the “attachment portion” of claim 1. (See 9/24/07 Office Action, p. 4). That is, the same element can not serve as the attachment portion and as a separate element (the chamfered portion) “providing a transition between the attachment portion and the operative surface,” as recited in claim 1.

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Furthermore, it is respectfully submitted that the septum of Wiita includes no portion which, when mounted within a housing, *"is subject to a force oriented substantially perpendicularly with respect to the annular surface, the chamfered portion redirecting a portion of the force to compress the operative surface in a direction substantially parallel to the annular surface"*, as recited in claim 1. Nothing in Wiita describes such a surface nor is any surface of the Wiita septum capable of redirecting force in this manner. This portion of the septum does not receive a *"force oriented substantially perpendicularly with respect to the annular surface,"* as recited in claim 1. Rather, this annular portion receives a force parallel to the annular surface. Accordingly, it is submitted that Wiita fails to teach or suggest a chamfer portion *"which, when the septum is mounted within the housing, is subject to a force oriented substantially perpendicularly with respect to the annular surface, the chamfered portion redirecting a portion of the force to compress the operative surface in a direction substantially parallel to the annular surface,"* as recited in claim 1 or *"a chamfered portion providing a transition between the attachment portion and the operative surface, the chamfered portion re-directing a component of a force applied to the chamfered portion to compress the operative surface,"* as recited in claim 12. It is respectfully submitted that claims 1 and 12 are therefore allowable over Wiita.

Bark purports to show a septum 10 comprising a needle penetrable seal member 34 having a reduced peripheral section 36 disposed on an inclined support surface 18 of the needle stop member 12. (See Bark, col. 3, ll. 56-58; col. 4, ll. 12-22; Fig. 2). The Examiner contends that the chamfer portion of the Bark device is defined by a portion lying near 36 and that the attachment portion is defined by a portion near support surface 18. (See 9/24/07 Office Action, p. 4). Initially, it is noted that the portion lying near 36 comprises a peripheral edge portion of the septum 10, wherein the reduced peripheral section 36 is in direct contact with the support surface 18. Accordingly, it is respectfully submitted that the Examiner's assertion that Bark shows a chamfer portion near reduced peripheral section 36 and an attachment portion lying near support surface 18 is invalid, as the support surface 18 comprises the portion of the Bark housing that houses the reduced peripheral section 36 and the area lying near the reduced peripheral section 36 and the support surface 18 may not be properly designated as two separate components. In any case, these elements are all on the inner surface of the septum and can not provide *"a transition between the attachment portion and the operative surface, the chamfered portion re-directing a component of a force applied to the chamfered portion to compress the operative surface,"* as recited in claim 1. That is, claim 1 recites *"an annular surface extending*

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radially beyond a periphery of the operative surface and *separated from the operative surface in a direction substantially perpendicular to the annular surface.*" The surface 18 cannot form both the annular surface and the operative surface and it is unclear how the surface 18 could provide a transition from the peripheral section 36 and the surface 34 -- the surface 18 simply extends between opposite ends of the section 36 and never contacts the surface 34.

Furthermore, Bark never discusses or suggests a chamfer which "is subject to a force oriented substantially perpendicularly with respect to the annular surface, *the chamfered portion redirecting a portion of the force to compress the operative surface in a direction substantially parallel to the annular surface,*" as recited in claim 1 or "a chamfered portion providing a transition between the attachment portion and the operative surface, the chamfered portion re-directing a component of a force applied to the chamfered portion to compress the operative surface," as recited in claim 12. Nor is any surface or structure of the septum of Bark suitable for a redirection of force as claimed. Accordingly, it is submitted that claims 1 and 12 are allowable over Bark.

In light of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: 12/26/07By: 

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